

§ 315.908

accept the supervisory or managerial position.

(b) A nonsupervisory or nonmanagerial employee who is demoted into a position in which probation under § 315.904 is required and who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period is entitled to be assigned to a position at the same grade and pay as the position in which he or she was serving probation. The employee is eligible for re-promotion in accordance with agency promotion policy.

(c) The agency must notify the employee in writing that he or she is being assigned in accordance with this section.

[49 FR 39287, Oct. 5, 1984, as amended at 60 FR 53505, Oct. 16, 1995]

§ 315.908 Appeals.

(a) An employee who, in accordance with the provisions of this subpart, is assigned to a nonmanagerial or non-supervisory position, has no appeal right.

(b) An employee who alleges that an agency action under this subpart was based on partisan political affiliation or marital status, may appeal to the Merit Systems Protection Board.

§ 315.909 Relationship to other actions.

(a) If an employee is required to concurrently serve both a probationary period under this subpart and a probationary period under subpart H of this part, the latter takes precedence and completion of the probationary period for competitive appointment and fulfills the requirements of this subpart.

(b) An action which demotes an employee to a lower grade than the one the employee left to accept the supervisory or managerial position, and an action against an employee for reasons other than supervisory or managerial performance, is governed by part 432 or part 752 procedures, whichever is applicable. If the employee believes an action under this subpart was based on improper discrimination or other prohibited practices under 5 U.S.C. 2302, he or she may appeal to the Merit Systems Protection Board or the Equal Employment Opportunity Commission, as appropriate.

5 CFR Ch. I (1–1–04 Edition)

PART 316—TEMPORARY AND TERM EMPLOYMENT

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5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

SOURCE: 33 FR 12423, Sept. 4, 1968, unless otherwise noted.

Subparts A–B [Reserved]

Subpart C—Term Employment

§ 316.301 Purpose and duration.

(a) An agency may make a term appointment for a period of more than 1 year but not more than 4 years to positions where the need for an employee's services is not permanent. Reasons for making a term appointment include, but are not limited to: project work, extraordinary workload, scheduled

abolishment, reorganization, contracting out of the function, uncertainty of future funding, or the need to maintain permanent positions for placement of employees who would otherwise be displaced from other parts of the organization. Agencies may extend appointments made for more than 1 year but less than 4 years up to the 4-year limit in increments determined by the agency. The vacancy announcement should state that the agency has the option of extending a term appointment up to the 4-year limit.

(b) OPM may authorize exceptions beyond the 4-year limit when the extension is clearly justified and is consistent with applicable statutory provisions. Requests to make and/or extend appointments beyond the 4-year limit must be initiated by the employing office and sent to the appropriate OPM service center.

[63 FR 63783, Nov. 17, 1998]

§ 316.302 Selection of term employees.

(a) *Competitive term appointments.* An agency may make a term appointment under part 332 of this title, by using competitive procedures, or under part 337 of this title, by using direct-hire procedures, as appropriate.

(b) *Noncompetitive term appointment.* An agency may give a noncompetitive term appointment, without regard to the requirements of parts 332 and 333 of this chapter, to an individual who is qualified for the position and who is eligible for:

(1) Reinstatement under § 315.401 of this chapter;

(2) Veterans readjustment appointment (VRA) under § 307.103 of this chapter. Term appointments under this section are permitted only at the grade levels authorized for VRA appointments. Such appointments are competitive service appointments not excepted VRA appointments and do not lead to conversion to career-conditional appointment;

(3) Career or career-conditional appointment under §§ 315.601, 315.604, 315.605, 315.606, 315.607, 315.608, 315.609, 315.703, or 315.711 of this chapter;

(4) Appointment under 5 U.S.C. 3112 (veterans with compensable service-connected disability of 30% or more). The disability must be documented by

a notice of retirement or discharge due to service-connected disability from active military service dated at any time, or by a notice of compensable disability rating from the Department of Veterans Affairs, dated within the last 12 months;

(5) Appointment under 31 U.S.C. 732(g) for current and former employees of the General Accounting Office;

(6) Appointment under 28 U.S.C. 602 for current and former employees of the Administrative Office of the U.S. Courts;

(7) Reappointment on the basis of having left a term appointment prior to serving the 4-year maximum amount of time allowed under the appointment. Reappointment must be to a position in the same agency appropriate for filling under term appointment and for which the individual qualifies. Combined service under the original term appointment and reappointment must not exceed the 4-year limit; or

(8) Conversion in the same agency from a current temporary appointment when the employee is or was within reach on a certificate of eligibles for term appointment *at any time during service in the temporary position*. *Within reach* means that the person could have been selected for the position under competitive hiring procedures, including veterans' preference. The certificate must have been actually used for term appointment. The person must have been continuously employed in the position from the date found within reach to the date converted to a term appointment.

(c) Term employees are eligible for an extension of their appointment in accordance with the time limits in § 316.301 even if their eligibility for noncompetitive appointment expires or is lost during the period they are serving under term employment.

[63 FR 63783, Nov. 17, 1998, as amended at 68 FR 35268, June 13, 2003]

§ 316.303 Tenure of term employees.

(a) A term employee does not acquire a competitive status on the basis of his term appointment.

(b) The employment of a term employee ends automatically on the expiration of his term appointment unless